

Assembly Hearing on Legalization of Marijuana in New York State

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Written testimony of the New York State Sheriffs' Association, authored and presented by:

Barry Virts, Wayne County Sheriff

Esteemed Members of the Assembly,

Good morning/afternoon. My name is Barry Virts, and I am the Sheriff of Wayne County, as well as the incoming President of the New York State Sheriffs' Association. Thank you for inviting me here today to share my thoughts on the potential legalization of marijuana in New York State on behalf of the Association and my fellow New York State Sheriffs.

I must first acknowledge that as a law enforcement professional, and a member of the executive branch of government, it is my responsibility to enforce those laws which are duly enacted by the legislature. Whatever the final outcome may be after this hearing, my fellow Sheriffs and I will uphold the law. With that said, I would like to share my perspective with you about this proposal, and suggest that this may be an inappropriate time to consider any type of decriminalization of marijuana in New York State.

As you are no doubt aware, our nation, our state, and our counties are in the midst of an opioid epidemic. The vast majority of the arrests that my Office makes are drug related, whether directly, such as for possession or dealing, or indirectly, such as crimes committed in order to fuel an addiction—burglary, robbery, assault and fraud—or crimes committed due to an altered state of mind caused by drugs. When so many of our friends and loved ones are battling substance abuse problems, it seems counter-intuitive to go in the opposite direction and legalize what is currently an illicit substance. It is my strong belief that legalization will result in an increase in the use of marijuana, and at the same time would trivialize its negative effects, which could lead to further, more serious drug use especially for our youth.

From a front-line law enforcement perspective, such an increase in marijuana use would be taxing upon my Office, and likely other police agencies as well. In 2017, my Office made 16 arrests for Driving While Ability Impaired-Drugs (DWAI-Drugs). This was 12 percent of the total

DWI arrests made by my Office. I've no doubt that this number will increase should any type of legalization occur. Unlike a DWI involving alcohol, DWAI-Drugs is more difficult to prosecute given the fact that there is no drug testing procedure or device equivalent to a breath chemical alcohol test. That is, while a breathalyzer will render a blood alcohol level which can be presented to a jury, a blood test for THC will only reveal the presence of the drug, but not its overall prevalence in a person's system. Furthermore, such a blood test must be administered by a qualified healthcare professional. Therefore, the roadside observations of the police officer who initiates a stop for suspicion of DWAI-Drugs become crucial. My Office employs two Drug Recognition Experts (DRE) who specialize in detecting the physical manifestations of drug impairment. It is expensive and time consuming for a police officer to become such an expert, and I suspect that my Office would need more deputies to become certified should there be any relaxation of the current marijuana laws.

Additionally, the United States Department of Justice has recently announced that they will be changing their policy with regards to enforcement and prosecution of federal marijuana laws, which still classifies marijuana as a Schedule 1 Controlled Substance. Federal prosecutors will once again have the discretion to prosecute marijuana related crimes. This conflict between state and federal laws would create confusion for our citizens as to what is legal and what is not.

I would encourage you to take these concerns into account when deliberating whether decriminalizing marijuana in New York State is appropriate at this time. I can understand your concern about how a conviction early in a person's life can drastically impact their future prospects. But with the passage of Raise the Age last session, there should be less of a risk of such a thing happening.

Thank you for allowing me to address you today. I'd be happy to answer any questions you may have.